

(2) *Construction.* Nothing in this section may be construed to exempt any Part D plan sponsor from taxes, fees, or other monetary assessments related to the net income or profit that accrues to, or is realized by, the organization from business conducted under this part, if that tax, fee, or payment is applicable to a broad range of business activity.

### Subpart J—Coordination of Part D Plans With Other Prescription Drug Coverage

#### § 423.452 Scope.

This section sets forth the application of Part D rules to Part C plans; establishes waivers for MA-PD plans, employer-sponsored group prescription drug plans, cost plans, and PACE organizations; and establishes requirements for coordination of benefits with State Pharmaceutical Assistance Programs and other providers of prescription drug coverage.

#### § 423.454 Definitions.

For purposes of this part, the following definitions apply—

*Employer-sponsored group prescription drug plan* means, prescription drug coverage offered to retirees who are Part D eligible individuals under employment-based retiree health coverage. For purposes of this subpart, employment-based retiree health coverage is such coverage (as defined in § 423.882) provided through a Medicare Part D plan, or for which a plan sponsor could qualify for payments under subpart R of this part.

*State Pharmaceutical Assistance Program (SPAP)* means a State program that meets the requirements described under § 423.464(e)(1).

[70 FR 4525, Jan. 28, 2005, as amended at 77 FR 1882, Jan. 12, 2012]

#### § 423.458 Application of Part D rules to certain Part D plans on and after January 1, 2006.

(a) *Relationship to Part C.* Except as otherwise provided in this part, the requirements of this part apply to prescription drug coverage provided by MA-PD plans offered by MA organiza-

tions beginning on or after January 1, 2006.

(b) *MA waiver.* CMS waives any provision of this Part otherwise applicable to MA-PD plans or MA organizations under paragraph (a) of this section to the extent CMS determines that the provision duplicates, or is in conflict with, provisions otherwise applicable to the MA organizations or MA-PD plans under Part C of Medicare, or as may be necessary in order to improve coordination of this part with the benefits under Part C.

(1) *Application of waiver.* Any waiver or modification granted by CMS under this section applies to any other similarly situated organization offering or seeking to offer a MA-PD plan that meets the conditions of the waiver.

(2) *Request for waivers.* Organizations offering or

seeking to offer a MA-PD plan may request from CMS in writing—

(i) A waiver of those requirements under this part otherwise applicable to the MA-PD plan or MA organization under paragraph (a) of this section that are duplicative of, or that are in conflict with, provisions otherwise applicable to the MA-PD plan, proposed MA-PD plan, or a MA organization under Part C of Medicare.

(ii) A waiver of a requirement under this part otherwise applicable to the MA-PD plan or MA organization under paragraph (a) of this section, if such waiver improves coordination of benefits provided under Part C of Medicare with benefits under this Part.

(c) *Employer group waiver*—(1) *General rule for employer-sponsored group prescription drug plans that are Medicare Part D plans.* CMS may waive or modify any requirement under this part that hinders the design of, the offering of, or the enrollment in an employer-sponsored group prescription drug plan, including authorizing the establishment of separate premium amounts for enrollees of the employer-sponsored group prescription drug plan and limitations on enrollment in such plan to Part D eligible individuals participating in the sponsor's employment-based retiree health coverage. Any entity seeking to offer, sponsor, or administer an employer-sponsored group prescription drug plan may request, in